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8 *Attorney for Plaintiff,*
9 TAMARA WAREKA
10 aka TAMARA WILLIAMS,
11

12 **UNITED STATES DISTRICT COURT**
13 **DISTRICT OF OREGON**

14 TAMARA WAREKA aka TAMARA
15 WILLIAMS,

16 Plaintiff,

17 v.

18 QUENBY’S AESTHETIC MEDICINE
19 AND WELLNESS CENTER; and
20 DOES 1 through 10 inclusive,

21 Defendant.

Case No. **3:20-cv-2087**

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF FOR
COPYRIGHT INFRINGEMENT**

DEMAND FOR JURY TRIAL

22
23 Plaintiff, TAMARA WAREKA aka TAMARA WILLIAMS (“Williams” or
24 “Plaintiff”), for its complaint against Defendant, Quenby’s Aesthetic Medicine and
25 Wellness Center, (“Defendant”) alleges as follows:
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JURISDICTION AND VENUE

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2 1. This is a civil action seeking damages and injunctive relief for
3 copyright infringement under the Copyright Act of the United States, 17 U.S.C. §
4 101 *et seq.*

6 2. This Court has subject matter jurisdiction over Plaintiff's claims for
7 copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

9 3. This Court has personal jurisdiction over Defendant because
10 Defendant conducts business and/or resides within this judicial district,
11 Defendants' acts of infringement complained of herein occurred in this judicial
12 district, and Defendants caused injury to Plaintiff within this judicial district.

14 4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and
15 1400(a) in that this is the judicial district in which a substantial part of the acts and
16 omissions giving rise to the claims occurred. Alternatively, venue is also proper
17 pursuant to 28 U.S.C. § 1400(b) because the Defendant resides and has a regular
18 and established place of business in this judicial district.

PARTIES

21
22 1. Plaintiff Tamara Williams ("Williams" or "Plaintiff") is a professional
23 photographer by trade based out of Germany.

24 2. Defendant Quenby's Aesthetic Medicine and Wellness Center
25 ("Defendant" or "Quenby's") owns and operates the website,
26 <http://quenbywellnesscenter.com/> (the "Website").
27
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1 3. Defendants maintain a principal place of business at 17084 Pilkington
2 Road, Lake Oswego, OR 97035. Attached hereto as Exhibit A is a true and correct
3 copy of Quenby's Statement of Information filed with the Oregon Secretary of
4 State.
5

6 4. Williams' is unaware of the true names and capacities of the
7 Defendants sued herein as DOES 1 through 10 inclusive, and for that reason, sued
8 such Defendants under fictitious names. Plaintiff is informed and believes and on
9 that basis alleges that such fictitiously named Defendants are responsible in some
10 manner for the occurrences herein alleged, and that Plaintiff's damages as herein
11 alleged were proximately caused by the conduct of said Defendants. Plaintiff will
12 seek to amend the complaint when the names and capacities of such fictitiously
13 named Defendants are ascertained. As alleged herein, "Defendant" shall mean all
14 named Defendants and all fictitiously named Defendants.
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18 5. For the purposes of this Complaint for Damages, unless otherwise
19 indicated, "Defendant" includes all agents, employees, officers, members,
20 directors, heirs, successors, assigns, principals, trustees, sureties, subrogates,
21 representatives and insurers of Defendant(s) named in this caption.
22

23 **FACTUAL ALLEGATIONS**

24
25 6. Tamara Williams is a freelancing photographer based in Germany
26 with a specialization in beauty and fashion. Williams has worked internationally
27 with many clients and is well known for her natural, perfected, and clean beauty
28 look. Her work has been featured in different countries and on the cover of

1 magazines such as Vogue, Harper's Bazaar, Marie Claire, Elle, L'Officiel,
2 Glamour, The Star, Martha Stewart, Woman's Health, Cosmopolitan, HELLO!
3 Magazine, Maxim, and many more.

4 7. Williams is the author and copyright holder to a beauty shot (the
5 "Image") originally published on December 1, 2017. Ninety-five percent of
6 Williams' images are shot as personal projects and are always first released on her
7 Instagram account.

8 8. Williams registered the Image with the United States Copyright
9 Office on or about August 23, 2018 under registration number VA 2-116-919.

10 9. Attached hereto as Exhibit B is a true and correct copy of the original
11 image.

12 10. On or about May 31, 2020, Williams discovered that Defendant had
13 used the Images without authorization on its Website to sell and promote a Botox
14 service (the "Infringing Post"). True and correct copies of the Infringing Post
15 featuring Williams' Image are attached hereto as Exhibit C.

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17 11. On or about June 2, 2020, Plaintiff attempted to contact Defendant
18 requesting, *inter alia*, that the Image be removed.

19
20 12. On information and belief, Defendants made unauthorized copies of
21 the Images, and uploaded them to the server for Defendant's Website. Plaintiff
22 continued to reach out to Defendant until October 15, 2020 in an effort to resolve
23 this matter, but never received a response.

24
25 13. Williams' never authorized Defendants to use the Images in any
26 manner.

27 14. On information and belief, Defendant knew that it did not have
28

1 permission to use the Images on the Website and willfully infringed Williams'
2 images.

3
4 **FIRST CAUSE OF ACTION**
5 **COPYRIGHT INFRINGEMENT**
6 **17 U.S.C. § 101 *et seq.***

7
8 15. Plaintiff incorporates by reference all of the above paragraphs of this
9 Complaint as though fully stated herein.

10 16. Plaintiff did not consent to, authorize, permit, or allow in any manner
11 the said use of Plaintiff's unique and original Images.

12 17. Plaintiff is informed and believes and thereon alleges that the
13 Defendant willfully infringed upon the copyrighted Images in violation of Title 17
14 of the U.S. Code, in that it used, published, communicated, posted, publicized, and
15 otherwise held out to the public for commercial benefit, the original and unique
16 Images of the Plaintiff without Plaintiff's consent or authority, by using it in the
17 Infringing Post on Defendant's Website.

18
19 18. As a result of Defendants' violations of Title 17 of the U.S. Code,
20 Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or
21 statutory damages in an amount up to \$150,000.00 pursuant to 17 U.S.C. § 504(c)
22 per work infringed.

23
24 19. As a result of the Defendants' violations of Title 17 of the U.S. Code,
25 the court in its discretion may allow the recovery of full costs as well as reasonable
26 attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendants.
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20. Plaintiff is also entitled to injunctive relief to prevent or restrain infringement of his copyrights pursuant to 17 U.S.C. § 502.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

- For actual damages or statutory damages against Defendants in an amount up to \$150,000.00 for each infringement pursuant to 17 U.S.C. § 504(c);
 - For general and special damages against Defendants, according to proof, together with interest thereon at the maximum legal rate;
 - For costs of litigation and reasonable attorney's fees against Defendants pursuant to 17 U.S.C. § 505;
 - For an injunction preventing Defendants from further infringement of all copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and
- For any other relief the Court deems just and proper.

Dated: December 2, 2020

Respectfully submitted,

/s/ Mathew K. Higbee

Mathew K. Higbee, Esq.

Cal. Bar No. 241380

HIGBEE & ASSOCIATES

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DEMAND FOR JURY TRIAL

Plaintiff, Tamara Williams, hereby demands a trial by jury in the above captioned matter.

Dated: December 2, 2020

Respectfully submitted,

/s/ Mathew K. Higbee
Mathew K. Higbee, Esq.
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